

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

In the matter of)	
)	
MUNDOMAX BROADCASTING, LLC)	
)	CGB-_____ ¹
Petition for Exemption from the)	
Closed Captioning Requirements)	
)	
To: The Commission		

**PETITION FOR EXEMPTION FROM THE
 CLOSED CAPTIONING REQUIREMENTS**

MundoMax Broadcasting, LLC (“*MundoMax*”), owner and operator of the MundoMax television network (the “*MundoMax Network*” or the “*Network*”), a Spanish-language programming network that is affiliated with broadcast television stations and has carriage agreements with several multichannel video program distributors (“*MVPDs*”), by its attorneys and pursuant to Section 79.1(f) of the Commission’s rules, hereby submits this Petition for Exemption from the Closed Captioning Requirements (this “*Petition*”).

Grant of this Petition is warranted because implementation of the closed captioning requirements by the Network would result in significant difficulty and expense, would be economically burdensome, and would result in a reduction in the quantity and quality of original Spanish-language programming the Network provides.²

¹ This document is being filed via the Commission’s Electronic Comment Filing System in Docket CG-06-181.

² See 47 C.F.R. § 79.1(f)(2).

I. Background.

The MundoMax Network is a U.S.-based Spanish-language television network that broadcasts programs aimed at Hispanic and Latino American audiences throughout the United States. The Network began service on August 8, 2012, and has since operated under the new network captioning exemption.³ Network programming is currently broadcast on 17 full power and 18 low power or Class A television stations in the United States, thus providing access to free, over-the-air Spanish-language programming for millions of viewers, many of whom depend on over-the-air signals as their sole source of television programming. The Network is also carried as a direct feed by various MVPDs.

The MundoMax Network was first launched in 2012 as “MundoFox” and was originally a joint venture between Fox International Channels (U.S.) (“FIC”), a division of Twenty-First Century Fox, Inc., and RCN Television Group, a privately-held Colombian television network (“RCN”). The joint venture planned to seek advertising dollars from marketers targeting the Spanish-speaking segment of the United States’ growing Hispanic population. The Network’s launch and continued operation has been extremely difficult, due to the competitive television programming environment and the general unavailability of full-power over-the-air broadcast stations in key Hispanic markets with which to affiliate. In part due to the difficulty in launching the new Network and, in large part, as a result of the significant operational losses that MundoFox suffered while FIC and RCN were joint venture partners, in July 2015, FIC sold its entire stake in the Network to RCN, and the Network was rebranded as “MundoMax.”

The MundoMax Network continues to provide 24-hour a day programming that includes feature films, telenovelas and other serialized dramas, reality television series, and game shows,

³ See 47 C.F.R. § 79.1(d)(9).

all in the Spanish language. Approximately 109 hours per week of this programming is original programming (either produced by MundoMax or purchased from television programming providers) and 59 hours per week is paid programming. *See* Exhibit A. MundoMax hereby requests an exemption of the closed captioning requirements for all nonexempt programming distributed by the MundoMax Network.

II. The MundoMax Network is Entitled to an Exemption Under the Economically Burdensome Standard.

MundoMax's compliance with the requirements to close caption video programming would be economically burdensome – that is, it would result in “significant difficulty [and] expense.”⁴ The economically burdensome standard is evaluated by the following criteria:

- (a) the nature and cost of the closed captions for the programming;
- (b) the impact on the operation of the provider or program owner;
- (c) the financial resources of the provider or program owner; and
- (d) the type of operations of the provider or program owner.⁵

MundoMax demonstrates through the information below that requiring the MundoMax Network to close caption its programming would result in significant difficulty and expense. An exemption from the closed captioning requirements is therefore warranted.

a. Nature and Cost of Closed Captioning.

Commission rules require that 100% of nonexempt Spanish-language programming be captioned.⁶ Upon expiration of the MundoMax Network's current new network captioning

⁴ 47 C.F.R. § 79.1(f)(2).

⁵ *Id.*; *see also Anglers for Christ Ministries, Inc.*, 26 FCC Rcd 14941, 14955-56 (2001).

⁶ 47 C.F.R. § 79.1(b)(3)(iv).

exemption, nearly all of the Network's programming will be considered nonexempt. Closed captioning compliance would therefore amount to a minimum annual expense for the Network of between \$1,530,360 to \$2,720,640.⁷ See Exhibit B. Such an additional expenditure would constitute a significant expense, and an economic burden, on the Network.

In addition to the hourly captioning expense noted above, the Network expects to incur capital expenditures to purchase closed captioning equipment for its television production studios, as well as ongoing costs of hiring and maintaining personnel to operate the closed captioning equipment and the cost to caption old programming. Moreover, automated captioning technology is generally considered inferior to human transcription and is often not usable, particularly for Spanish-language programming. For this reason, the Network has not specifically calculated the personnel costs associated with captioning programming in-house.

Section 79.1(d)(11) of the Commission's rules allows a video programming provider to limit its captioning expense to no more than two percent (2%) of the gross revenues received from that channel during the previous calendar year.⁸ If MundoMax were to avail itself of this exemption, it would still need to spend approximately [REDACTED] (i.e., approximately [REDACTED] in 2015 gross revenue X 2% = [REDACTED] on closed captioning. An Estimated Statement of Operations for the years ended June 30, 2013, 2014 and 2015 is attached hereto as Exhibit C. As discussed below, even this additional expense would be an economic burden on the MundoMax Network.

⁷ The Network received four documented closed captioning quotes ranging from \$4.50 to \$8.00 per minute. Based on 109 hours of original programming per week, the closed captioning cost would be between \$29,430 and \$52,320 per week, or an annual expense ranging from \$1,530,360 to \$2,720,640. Copies of the quotes are attached as Exhibit B. Additional expenses would be incurred for personnel, taping and the provision of dedicated phone lines

⁸ See 47 C.F.R. § 79.1(d)(11).

b. Effect on the MundoMax Network's Operations

The MundoMax Network has incurred significant financial losses since launching service in 2012. As summarized in subsection (c) below, losses totaled approximately [REDACTED] for fiscal year 2013-2015 and losses are approximated to total [REDACTED] for fiscal year 2016. The Network cannot absorb sizeable additional expenses without a significant negative impact on the acquisition of its original Spanish-language programming and overall operations. If the Network incurred [REDACTED] in additional expenses to caption its programming, the budget available for the production or acquisition of new programming would be significantly reduced, and viewers of the MundoMax Network, including those for whom MundoMax provides vital, free, over-the-air broadcast programming, would suffer due to the reduction in the amount of new originally produced Spanish-language programming. Other areas of the Network's operations would need to be reduced or eliminated, and this could include cutbacks in the Network's already small staff. Clearly, the additional [REDACTED] it would cost to close caption its programming would constitute an undue burden on the Network. Cutbacks in the MundoMax Network's operations would eliminate or reduce the availability of a unique and much needed outlet that focuses specifically on the needs of Spanish-speaking audiences in the United States.

As the MundoMax Network approaches its fourth anniversary of delivering high-quality, original programming to Spanish-speaking audiences, the Network continues to face significant market and economic pressures. The Network would like to pursue additional affiliation agreements with broadcast television stations and carriage on additional MVPD systems. The addition of extensive costs for captioning could hamper these goals. Furthermore, MundoMax expects the availability of over-the-air television station affiliates to be severely curtailed after the conclusion of the Broadcast Television Incentive Auction, since many stations in major markets will go off-air after the auction.

c. Financial Resources of the MundoMax Network

As noted above, the MundoMax Network has incurred significant operational losses since its inception. Specifically, losses incurred for fiscal years 2013-2015 were approximately:

2013: [REDACTED]
2014: [REDACTED]
2015: [REDACTED]

Thus, losses from 2013 through 2015 totaled over [REDACTED] See Exhibit C.

With losses at this level, the Network cannot absorb sizeable additional expenses without a significant negative impact on the production of original, Spanish-language programming and overall Network operations. If the Network were to incur substantial additional expenses in closed captioning its programming, layoffs of additional personnel will be inevitable. In fact, in August 2015 when RCN bought out Fox International Channel, the Network had to eliminate the jobs of 32 full-time employees. In March 2016, an additional 15 full-time and 23 freelance positions were eliminated, and in April 2016, five additional positions were eliminated.

The FCC's policy requires that an entity seeking an exemption demonstrate that it sought financial assistance for captioning from its video programming distributors and other sources. In an effort to comply with the FCC's policy, MundoMax has sent correspondence to each MVPD that carries the Network in the United States requesting closed captioning assistance. No MVPD has responded positively to this request. The Network has also conducted research on the possibility of obtaining grant funds to assist with closed captioning and has determined that the available grants are generally limited to providing captioning assistance for educational, not commercial, programming. The Network has offered sponsorship opportunities in support of captioning, but to date, no potential sponsor has accepted this opportunity.

It should also be noted that certain programming purchased by MundoMax actually arrives at the Network with closed captioning files, but that captioning is largely unusable.

Because much of the programming aired on the MundoMax Network is produced in Spanish dialects of other Latin American countries (e.g. Argentine Spanish), new audio tracks are typically created because the U.S. Hispanic audience prefers Mexican Spanish. In addition, MundoMax's programming department typically edits the programming to make the pacing more appealing to U.S. viewers. As a result of the process of "Americanizing" the programming, the closed captioning that comes with the programming is rendered unusable. Understandably, MundoMax's programming providers are not willing to then incur a second expense to close caption the modified programming.

d. The Type of Operations of the MundoMax Network.

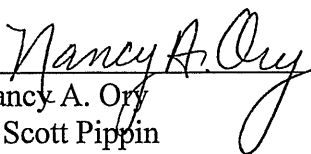
The MundoMax Network is a provider of unique programming that is an alternative to traditional Hispanic television channels. The Network is designed specifically for U.S.-born Hispanics who consider themselves bi-cultural. In addition to airing current and classic telenovelas during the daytime hours, MundoMax airs "teleseries" which emphasize action-oriented storylines, diverse locations and higher quality production. The MundoMax Network produces approximately 100 hours of original programming each year. Creating a new Spanish-language television network has been a costly, multi-year process, and the MundoMax Network has not yet broken even financially.

III. Conclusion.

For the reasons set forth herein, MundoMax submits that, in accordance with the “economically burdensome” standard of the Commission’s rules, the MundoMax Network is entitled to an exemption from the closed captioning requirement.

Respectfully submitted,

MundoMax Broadcasting, LLC

By: 
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August 5, 2016

Its Attorneys

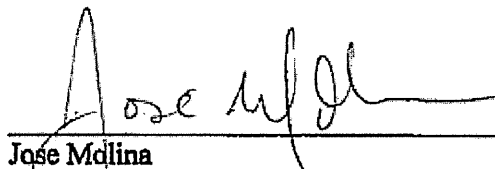
DECLARATION

I, Jose Molina, declare the following:

1. I am Chief Financial Officer and interim President of MundoMax Broadcasting, LLC.
2. I have reviewed the foregoing Petition for Exemption from the Closed Captioning Requirements (the "*Petition*"), including the Estimated Statement of Operations for the years ended June 30, 2013, 2014 and 2015 for MundoMax Broadcasting, LLC. All information and statements contained in the Petition are true and correct to the best of my knowledge and belief.
3. MundoMax has sent correspondence to the multichannel video programming distributors that carry the direct feed of the MundoMax Network in the United States requesting closed captioning assistance, and no assistance has been offered or provided.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 5, 2016.



Jose Molina
Chief Financial Officer and Interim President

Exhibit A
Programming Grid

MundoMax WEEK 45 V.1 Date Range: 08/01/2016 - 08/07/2016								
EST	Mon 08/01/2016	Tue 08/02/2016	Wed 08/03/2016	Thu 08/04/2016	Fri 08/05/2016	Sat 08/06/2016	Sun 08/07/2016	EST
5:00 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	5:00 AM
5:30 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	5:30 AM
6:00 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	6:00 AM
6:30 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	6:30 AM
7:00 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	7:00 AM
7:30 AM	Gran Gran Mundo MF0572888	Gran Gran Mundo MF0572889	Gran Gran Mundo MF0572890	Averiguando Cosas MF0590137	Averiguando Cosas MF0575292	Averiguando Cosas MF0575293	Paid Programming	7:30 AM
8:00 AM	A Mano Limpia MF0583909	A Mano Limpia MF0585782	A Mano Limpia MF0585781	A Mano Limpia MF0585780	A Mano Limpia MF0585779	Paid Programming	Paid Programming	8:00 AM
8:30 AM						Paid Programming	Paid Programming	8:30 AM
9:00 AM	Francisco el Matemático MF0587821	Francisco el Matemático MF0587822	Francisco el Matemático MF0587823	Francisco el Matemático MF0587824	Francisco el Matemático MF0587825	Paid Programming	Paid Programming	9:00 AM
9:30 AM						Paid Programming	Paid Programming	9:30 AM
10:00 AM	El Día de la Suerte MF0523473	El Día de la Suerte MF0523474	El Día de la Suerte MF0523475	El Día de la Suerte MF0523476	El Día de la Suerte MF0523477	Paid Programming	Paid Programming	10:00 AM
10:30 AM						Paid Programming	Paid Programming	10:30 AM
11:00 AM	Lo Mejor de 100 Latinos Dijeron MF0590186	Lo Mejor de 100 Latinos Dijeron MF0590187	Lo Mejor de 100 Latinos Dijeron MF0590193	Lo Mejor de 100 Latinos Dijeron MF0590194	Lo Mejor de 100 Latinos Dijeron MF0590200	Entérese MF0585783	Breaking the Magellan's Code: Magic's Biggest Secrets Finally Revealed MF0551181	11:00 AM
12:30 AM								12:30 AM
12:00 PM	La Guerrera MF0549134	La Guerrera MF0549135	La Guerrera MF0549136	La Guerrera MF0549137	La Guerrera MF0549138	Chica Vampiro MF0485420	Chica Vampiro MF0485420	12:00 PM
12:30 PM								12:30 PM
1:00 PM	Las Santísimas MF0527323	Las Santísimas MF0527322	Las Santísimas MF0527321	Las Santísimas MF0527320	Las Santísimas MF0529486	La Playita MF0593683	Most Daring "Most Daring" MF0549629	1:00 PM
1:30 PM								1:30 PM
2:00 PM	El Último Matrimonio Feliz MF0585772	El Último Matrimonio Feliz MF0585771	El Último Matrimonio Feliz MF0585770	El Último Matrimonio Feliz MF0585769	El Último Matrimonio Feliz MF0585768	Cine MundoMAX SAT1: Home of the Giants MF0548325	Most Daring "Madness & Mayhem" Most Daring "One False Move" 111 Cine MundoMAX SUN1: Dream Hotel: Brazil MF0542878	2:00 PM
2:30 PM								2:30 PM
3:00 PM	Suleiman MF0539988	Suleiman MF0539989	Suleiman MF0541637	Suleiman MF0541638	Suleiman MF0541639	Cine MundoMAX SAT2: Assumed Killer MF0520351	Cine MundoMAX SUN2: Dark Rising 2: Summer Strikes Back MF0524372	3:00 PM
3:30 PM								3:30 PM
4:00 PM	Most Shocking "Drunk & Disorderly" MF0562567	Most Shocking "Citizens Under Attack 2" MF0562569	Most Shocking "Chases and Crashes" MF0562571	Most Shocking "Cops Under Attack" MF0562573	Most Shocking "Best of Most Shocking" MF0562575	La Playita MF0520047	La Playita MF0520048	4:00 PM
4:30 PM								4:30 PM
5:00 PM	100 Latinos Dijeron MF0584339	100 Latinos Dijeron MF0586635	100 Latinos Dijeron MF0586636	100 Latinos Dijeron MF0586637	100 Latinos Dijeron MF0586638	Diomedes MF0565997	Diomedes MF0565998	5:00 PM
5:30 PM								5:30 PM
6:00 PM	Diomedes MF0565994	Diomedes MF0565995	Diomedes MF0565996	Diomedes MF0565997	Diomedes MF0565998	Diomedes MF0565997	Diomedes MF0565998	6:00 PM
6:30 PM								6:30 PM
7:00 PM	Azúcar MF0584260	Azúcar MF0584262	Azúcar MF0584263	Azúcar MF0584264	Cine MundoMAX: Rosario Tijeras MF0572063	Diomedes MF0565998	Sura & Seyit MF0540643	7:00 PM
7:30 PM								7:30 PM
8:00 PM	Contra el Tiempo MF0577141	Contra el Tiempo MF0586253	Contra el Tiempo MF0586246	Contra el Tiempo MF0586247	Cine MundoMAX SAT3: Leave MF0574447	Cine MundoMAX SUN3: Kill Bill: Volume 1 (N) MF0573424	Cine MundoMAX SUN4: La Vida No Vale Nada MF0534706	8:00 PM
8:30 PM								8:30 PM
9:00 PM	La Playita MF0520047	La Playita MF0520048	La Playita MF0520049	La Playita MF0520050	La Playita MF0520051	Most Shocking "Drunk & Disorderly" MF0562567	Most Shocking "Citizens Under Attack 2" MF0562569	9:00 PM
9:30 PM								9:30 PM
10:00 PM	Así es la Vida Pasión Fanática MF0521235	Así es la Vida Pasión Fanática MF0521231	Así es la Vida Pasión Fanática MF0521232	Así es la Vida Pasión Fanática MF0521233	Así es la Vida Pasión Fanática MF0521234	Most Shocking "High Speed Pursuits" 101 Most Shocking "Criminal Behavior" MF0509871	Diomedes MF0565995	10:00 PM
10:30 PM								10:30 PM
11:00 PM	Diomedes MF0565994	Diomedes MF0565995	Diomedes MF0565996	Diomedes MF0565997	Diomedes MF0565998	Diomedes MF0565997	Diomedes MF0565998	11:00 PM
11:30 PM								11:30 PM
12:00 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	12:00 AM
12:30 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	12:30 AM
1:00 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	1:00 AM
1:30 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	1:30 AM
2:00 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	2:00 AM
2:30 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	2:30 AM
3:00 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	3:00 AM
3:30 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	3:30 AM
4:00 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	4:00 AM
4:30 AM	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	Paid Programming	4:30 AM

Exhibit B

Closed Captioning Quotes

[Confidential Quotes Redacted]

Exhibit C

Financial Statements

[Confidential Statements Redacted]